

REMARKS

A summary of the status of the claims in the present response is presented below.

Claims 1, 2, 3, 14, and 15 are currently amended.

Claims 4-13 and 16-20 are originally presented claims.

Claims 1-20 are thus currently pending in this Application.

In the Office Action of July 1, 2005, the Examiner has stated that the declaration under 37 C.F.R. § 1.131 submitted by Applicant is ineffective to overcome the Park reference since the Examiner has interpreted that "February 15, 2003" as the date of the "Finish Project". The Examiner has misinterpreted Applicant's declaration and evidence. Applicant's declaration states that "I submit that at least as early as January 11, 2003, the invention was conceived by me and my joint inventor". The January 11, 2003 date of Applicants' invention is prior to the January 15, 2003 priority date of Park. The Examiner has misinterpreted the Applicants' evidence attached to the Declaration. Applicant's calendar entry that states on February 15, 2003 "Project Finish Model" is in reference to the guidelines of submitting a completed science fair "Project" in accordance with the Norwin School District criteria that is used by the school district for judging an "INVENTION PROJECT". The February 15, 2003 date has no bearing on Applicants' conception of the invention that is prior to the Park reference. February 15, 2003 is the date that the Applicants completed the full size working invention that was successfully tested by our thirteen year old arthritic dog. Applicants submit a revised Declaration Under 37 CFR § 1.131 which sets forth this fact.

The Examiner's Advisory Action dated September 20, 2005 notified Applicants that Applicants' 1.131 affidavit allegations of facts required supporting evidence as set forth under MPEP 715.07. Applicants submit the attached Supporting Statement Of Witness To Factual Evidence ("Supporting Statement of Witness") to accompany the revised Declaration of Craig G. Cochenour Under 37 CFR § 1.131. The attached Supporting Statement of Witness is evidence supporting the facts set forth in Applicants' Declaration under 37 CFR § 1.131 dated April 26, 2005 and the revised Applicants' Declaration under 37 CFR § 1.131 attached hereto which includes as exhibits two photographs of Applicants' working full size invention completed on February 15, 2003.

Applicants' respectfully submit that the Declarations are now supported by evidence in compliance with MPEP 715.07 and 37 CFR §1.131. The Applicants' Declarations and Supporting Statement of Witness's evidence of fact establishes the conception of the invention claimed in the above-captioned Application is prior to the effective date of U.S. Patent Application Publication No. US 2004/0195227 (Park) coupled with due diligence from prior to the reference date to a subsequent actual reduction to practice of a working full size physical invention successfully used by a geriatric dog on February 15, 2003, and the filing of Applicants' patent application on February 28, 2003. The Park reference is not relevant and is rendered moot. Applicants respectfully submit that for the above reasons that the pending claims are in condition for allowance and such action is courteously requested at an early date.

Claim Rejection - 35 U.S.C. § 103(a)

Claims 1-5 and 7-20 were rejected under 35 U.S.C. 103(a) for allegedly being unpatentable over U.S. Patent Application Publication No. US 2004/0195227 (Park) in view of US Patent No. 5516189 (Ligeras). Applicants' above remarks are equally applicable at the present juncture. Applicants previously supplied Declaration and the revised attached Declaration and Supporting Statement of Witness of fact evidence establishes the date of conception of the invention claimed in this Application on or before January 11, 2003 coupled with a diligent reduction to practice of a full size working invention tested on February 15, 2003. January 11, 2003 is a date that is prior to the effective date of the Park reference. Thus, the rejection based upon Park is moot. Applicants have amended Claims 1, 2, 3, 14 and 15 to recite that the current from the electric utility is non-direct current as will be understood by those skilled in the art and to recite an electrical cord for supplying the non-direct electrical current from the electric utility to the temperature source and wherein the actuator element is connected to the electrical cord. Support for these amendments may be found at paragraph 034 and Applicants' Figures 1-2 of the published Application.

Claim 6 was rejected under 35 U.S.C.103 (a) as allegedly being unpatentable over U.S. Patent Application Publication No. US 2004/0195227 in view of

Ligeras as applied to Claims 1-5 and 7-20 and further in view of Goldston (US Patent No. 5303485). The previously supplied Declaration of Applicant and the revised Declaration and Supporting Statement of Witness attached hereto, and the remarks with regard to Park set forth hereinabove are equally applicable at this juncture. Thus, the rejection based upon Park is moot.

Applicants respectfully submit that the cited references do not teach or suggest the present invention, and that the subject matter of the claimed invention would not have been obvious to one having ordinary skill in the art.

For the above reasons, Applicants courteously request that the rejections under 35 U.S.C. § 103(a) be withdrawn and that all pending claims be allowed at an early date.

OTHER ART OF RECORD AND NOT RELIED UPON BY EXAMINER

Applicants submit that the other art made of record and not relied upon by the Examiner is not more pertinent than the art relied upon by the Examiner.

CONCLUSION

It is respectfully submitted that Applicants' pending claims 1-20 illustrate a patentable patient activated temperature-controlled surface, animal bed, and method of providing comfort to a patient employing the patient activated temperature-controlled surface that are not taught or suggested by any of the art of record. Applicants respectfully submit that the previously supplied Declaration, the revised Declaration and Supporting Statement of Witness attached hereto, and remarks set forth in this paper place this Application in a condition for allowance and such action is respectfully requested at an early date.

AUTHORIZATION

Applicants believe that no further government fees are due for this Response and Amendment.

The Commissioner is hereby authorized to charge any necessary additional fees associated with this paper to Deposit Account No. 02-4553. A duplicate copy of this Response and Amendment is enclosed for deposit account purposes.

Respectfully submitted,

Buchanan Ingersoll PC

A handwritten signature in black ink, appearing to read "Craig G. Cochenour", written in a cursive style.

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